

COMMITTEE ON BILLS ON SECOND READING

August 7, 2001

6:00 PM

Chairman Wihby called the meeting to order.

The Clerk calls the roll.

Present: Aldermen Wihby, Sysyn, Pinard, Cashin

Absent: Alderman Clancy

Messrs: R. MacKenzie, F. Rusczyk, M. Sink, A. Paras

Chairman Wihby addressed Item 3 of the agenda:

Communications from Rabbi Jacob Rosner requesting a change in the City's Charter to avoid having an election day on a Jewish Holiday in the future.

Alderman Cashin moved to approve the request. Alderman Pinard duly seconded the motion.

Chairman Wihby asked Leo what would this do. Would this put a question on the ballot?

Clerk Bernier answered yes and if you look at this handout for the next five years it will never happen. Our primary day will not interfere with a Jewish Holiday for the next five years. I think we need to address this when they reopen the Charter Commission or 10 years from now.

Chairman Wihby asked well we can still put in on the ballot can't we.

Clerk Bernier answered yes.

Chairman Wihby asked do we know what the question is, Leo.

Clerk Bernier answered no we don't. I would have to work with Tom Arnold. We would also have to have a public hearing. I think it would be difficult to get it put on the November ballot. I have to check the RSA's.

Chairman Wihby asked are you going to get back to us for that. What is the normal practice? Do we have to vote again?

Clerk Bernier answered I would have to look at the RSA because there are certain time limits in regards to putting a question on the November ballot.

Chairman Wihby asked if we pass this today saying that we want to do it, do we have to see the actual writing again.

Clerk Bernier answered yes you would.

Chairman Wihby asked so what would the motion be for us to do it and you to get back to us with the wording.

Deputy Solicitor Arnold answered I think that would be appropriate. Obviously you will have to go through the Charter amendment process to actually pass it. We will have to come up with wording and hold a public hearing and within seven days send it to the ballot. All the same requirements that we had to meet with the proposed school amendment.

Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.

Chairman Wihby stated we are pulling Item 4 out. My understanding is that we are going to have another public hearing on that and it is scheduled for August 27.

Proposed Zoning Ordinance changes:

"Amending the Zoning Ordinance of the City of Manchester by making the following changes to the map and text as follows:

- 1) on the zoning maps, extend the R-SM (multi-family) zoning district to include Lot 17 and the remaining portion of Lot 8 on either side of Countryside Boulevard west of Hackett Hill Road, in an area currently zoned R-S (single-family);
- 2) on the zoning maps, extend the B-2 (general business) district southerly to include the remaining portions of two lots on Loring Street and two lots on Faltin Drive, in an area currently zoned IND (general industrial);
- 3) in the text portion of the ordinance, amend Section 6.07 Table of Dimensional Regulations by changing under the Height column "35" (feet) to "45" (feet) in the line for R-SM - Residential."

On motion of Alderman Cashin, duly seconded by Alderman Sysyn, it was voted to recommend to the Board that these items be referred to a public hearing on August 27.

Alderman Lopez stated in doing that also I would like to bring to your attention Article 16 on amendments on zoning. The problem here is that nobody is responsible in making sure that this thing is complied with because under that amendment that we approved on the zoning on how to propose an amended ordinance, it says, "the Board of Mayor and Aldermen may, from time to time, amend supplement, or repeal provisions of the ordinances. Amendments may be initiated by the Board of Mayor and Aldermen, Planning Board, City Administration or one or more property owners" but there are certain criteria under 16.02 and 16.03 of the ordinance that have to be complied with before the public hearing. I wanted to bring that to your attention.

Chairman Wihby asked what are you talking about.

Alderman Lopez answered on the proposed amendments to the zoning map there are seven criteria that have to be met. "A proposal to amend this ordinance in a matter which affects the zoning district boundary or which would create a new base for overlay district which would result in all parts of zoning. Districts being reclassified shall be accompanied by maps, data, merits of information describing the location, nature, and purpose" and it goes to number seven stating "a description of the area, statement of purpose and intent and a property tax map showing existing zonings, evaluation impact for proposed amendments within the affected districts, a statement of impact for proposed amendment of City economic, environment, municipal service and municipal facilities." All of these things should be done before the hearing so that the Board of Mayor and Aldermen can make a good decision. We worked, as you are well aware of and Bill Cashin is well aware many years on trying to get this zoning ordinance that we passed this past year but there is a lot of information in here as you know we went through last night that the people presenting were not really prepared but if they followed the guidelines in doing this and I talked to Mr. MacKenzie today...I really think...

Chairman Wihby interjected, Bob, we have never done this in the past. Is this something that has changed since the last time we rezoned something? Alderman Lopez, can you address Bob regarding what you are talking about.

Alderman Lopez stated yes I am talking about Article 16 on amendments, initiated proposed amendments to the ordinance which I spoke briefly to you about today, Bob. There is quite a criteria that has to be met under Article 16.02 and 16.03 of the procedures. I think one of the most important things under 16.01 is it tells you

who can do something but it doesn't tell you who is going to make sure that these provisions are complied with before it comes before the Board of Mayor and Aldermen. I think because maybe you are the Planning Director everybody thinks that you are going to do it and I don't know if that is true. If it is your department that does it or is it the City Solicitor to make sure that all of this is complied with. Is it the Building Department? Who actually is responsible to ensure that 16.01, 16.02 and 16.03 are complied with?

Mr. MacKenzie replied I do concur that the ordinance does specify who should administer and enforce the zoning ordinance and that is the Building Department but there is nobody, there is no department specifically designated to assist the Board of Mayor and Aldermen in handling rezoning requests. The City Clerk processes the paperwork and provides the information that the applicant submits to them but at the present time there is no department that actually says you need more information or this is specifically the criteria and you do or do not make that. There is no department. Rezoning is a process that the Board of Mayor and Aldermen actually accomplishes so there is no specific department assigned to insuring that when a rezoning comes to the Board everything is in order and all of the materials are there. The Clerk's Office does submit everything that they receive but they don't analyze a rezoning request. The Board may wish to consider doing that and selecting a department to make sure that everything is in order.

Alderman Cashin stated you are telling me that as the Planning Director of the City of Manchester, zoning changes are coming before us without you people agreeing to them and making sure that all of the I's are dotted and all of the T's are crossed. Is that what you are telling me?

Mr. MacKenzie replied that is correct. The ordinance provides, if you wish, to ask for a recommendation from the Planning Board but there is nothing specific that has the Planning Department involved in the process. Our staff has a lot of knowledge and we will meet with prospective developers and provide them some guidance, but there is no department that says you know you should be providing this exact information and here are some issues that you are going to have to deal with. That has normally been the Board of Mayor and Aldermen that decides the course of each rezoning.

Chairman Wihby stated are you going to tell me that the last time we didn't sit there and ask for the recommendation from the Planning staff on rezoning.

Mr. MacKenzie replied you have noticed that very rarely I have actually had a written response and that is because there is no ordinance, there are no guidelines that would direct me to do so. I am always available to the Board and the

Committee to provide any information that I can provide and a recommendation but there is nothing in the ordinance that says that I should be doing that or that you even want that recommendation.

Chairman Wihby stated well we have asked almost...I can't remember a rezoning request where we haven't asked for your opinion as the Planning Director and you have given us one.

Mr. MacKenzie stated I am always prepared if you ask to provide a recommendation.

Chairman Wihby stated as we asked yesterday.

Alderman O'Neil stated in my prior life as an Alderman I thought we always used to get a recommendation from the Planning Board but it may have been the staff. Do you recall?

Mr. MacKenzie replied the old ordinance said that if the Planning Board does not provide a recommendation within 20 days you can assume that they are supporting it so in the previous days, in the previous ordinance, the Planning Board would try to hustle once they knew about a proposed rezoning and provide a recommendation to the Board but the new ordinance is a little bit different.

Alderman Wihby stated I agree with Alderman Lopez. It seemed to be quite disorganized on both sides last night, our side as well as those testifying. Can we put as part of this process and we are getting a fresh start on the items from last night that if they are going to talk about maps and that stuff that they should provide those for the Board? They were talking about maps and lot numbers and I don't think any of us had a clue where they were on the site. I will speak for myself. That was very frustrating. If we can do that as part of not only the group that presented last night but in the future making sure that they present information...you know if they are going to talk about specific information they present copies of maps or anything else they want to provide for the Board, that would be helpful.

Alderman Cashin stated, Bob, I don't think I should have to say this but I certainly would expect a recommendation from the Planning staff and if you are sitting there tonight and telling me that for whatever reason you are either not comfortable doing that than I have a major problem.

Mr. MacKenzie replied I am not saying that I would be uncomfortable making a recommendation. I guess I am saying that I would be presumptuous to have offered a recommendation if there is no ordinance or process that requires me to. I

will be prepared if the Board or Committee asks to provide a recommendation, but there is no ordinance that requires me to do so. I just did not want to be presumptuous.

Alderman Cashin asked were you here last night, Bob.

Mr. MacKenzie answered yes I was.

Alderman Cashin asked did you watch that fiasco.

Mr. MacKenzie answered yes I did.

Alderman Cashin asked do you know how embarrassing it was for everybody participating.

Mr. MacKenzie answered yes. This is the first rezoning that came about under the new ordinance and I would suggest that to avoid that in the future you do designate a department to specifically identify...

Alderman Cashin interjected as far as I am concerned you are designated right now.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted to have the Planning Department review all zoning ordinance change requests prior to the public hearing.

Mr. MacKenzie stated I would be happy to talk about the specific applications that were before you. I did, in a discussion today with Tom Clark, become aware that he would recommend that there be another hearing on those.

Chairman Wihby stated we are not taking that up. We are having another hearing that is scheduled for August 27.

Alderman Cashin asked and at that time you will be ready to make a recommendation, right.

Mr. MacKenzie answered yes.

Chairman Wihby addressed Item 5 of the agenda:

Ordinance Amendments:

"Amending Sections 33.024, 33.026 (Equipment Mechanic I, Equipment Mechanic II) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024, 33.036 and 33.026 (Recreation Specialist I, Recreation Specialist II) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024, 33.025 and 33.026 (Police Telecommunications Manager) of the Code of Ordinances of the City of Manchester."

On motion of Alderman Cashin, duly seconded by Alderman Sysyn, it was voted that the Ordinances ought to pass.

Chairman Wihby addressed Item 6 of the agenda:

Ordinance Amendment:

"Amending Chapter 33, Section 33.046 (F) Starting Rate on Demotion of the Code of Ordinances of the City of Manchester."

On motion of Alderman Sysyn, duly seconded by Alderman Pinard, it was voted that the ordinance amendment ought to pass.

Chairman Wihby addressed Item 7 of the agenda:

Ordinance Amendment:

"An Ordinance amending Section 33.049 Special Merit Pay Increases by changing the requirements for how they shall be granted."

Deputy Clerk Johnson stated we would note that we have distributed a handout that was given to us by the Solicitor's Office. The item had been referred as well to the Solicitor's Office for review of the language and this is their proposed language.

Chairman Wihby asked right now, what happens. Who okays it now just the Mayor and the HR Director?

Deputy Clerk Johnson answered if you look at the attachment in the agenda, actually it would be the last page. It says Item 6 but it is actually Item 7 the part that is struck out is actually included in the current language so it says that the department head may recommend justifications to the HR Director and/or Human Resources/Insurance Committee. Actions to approve such recommendations shall be made by the HR Director and the Mayor and/or the Human Resources/Insurance Committee. It can be done by the Director and the Mayor or by the Committee.

Chairman Wihby replied I am lost. You are crossing off...whatever is crossed off is what was in the old one and whatever is dark is new.

Deputy Clerk Johnson responded that is what was requested to be added but instead of wording it this way, the Solicitor's Office is saying change the whole thing to read what is in front of you. If you intend to make the change that he is suggesting, that is the language he would prefer to see.

Chairman Wihby stated so right now recommendations are made to the HR Director and the Mayor and/or the Human Resources/Insurance Committee. What does that mean? Two of those three. So could it be the Mayor and the Committee or does it have to be the HR Director and either the Mayor or the Committee?

Alderman Lopez replied that is correct.

Chairman Wihby asked so is it always the HR Director and the Mayor or the Committee.

Alderman Lopez answered that is the way the ordinance reads but it never happened that way.

Chairman Wihby asked and the new way is going to be just the Committee.

Alderman Lopez answered the same thing would apply. The Mayor and the HR Director would make their final recommendation to the Committee and the final decision would be made by...the recommendation of the HR Committee would be final. It gives the Committee versus one or two people that we have had in the past or one person of doing this.

Chairman Wihby asked, Tom, did you write this.

Deputy Solicitor Arnold answered I had a hand in it.

Chairman Wihby asked where does it say here that the Mayor has a say. It sounds like every single one that the department head brings forward has to go to the HR Committee.

Deputy Solicitor Arnold answered yes.

Chairman Wihby stated the Mayor has no say.

Deputy Solicitor Arnold replied well a copy of the recommendation goes to the Mayor I presume so that if he wanted to object he would have knowledge and could do that.

Chairman Wihby asked but they are all going to the HR Committee.

Deputy Solicitor Arnold answered it is going to the HR Director who shall submit all of them to the HR Committee and the HR Committee would take the final action.

Chairman Wihby asked so any time a department head recommends a merit increase it goes to the HR Committee.

Deputy Solicitor Arnold answered that is correct.

Chairman Wihby stated so the HR Director can't stop it and the Mayor can't stop it, only the Committee can stop it.

Deputy Solicitor Arnold replied I believe that is correct.

Alderman O'Neil asked we are talking special merit correct, not the regular merit.

Chairman Wihby answered right. Is that what was the intent?

Alderman Lopez stated I don't know why the Mayor was taken out. The Committee voted that it would go to the HR Director and the Mayor and a final action would come before the Committee. I don't know why the City Solicitor took out the Mayor.

Chairman Wihby asked wasn't one of the reasons we had it the old way was to take politics out of the whole issue and that it was up to the Mayor and the HR Director rather than the Aldermen voting on someone's special merit increase. I like you so I am going to give it to you and I don't like you so I am not and I don't

know the justifications and the Mayor could come in and say no and the HR Director could come in and say no and it doesn't matter?

Alderman Lopez replied I can only answer that this way. The way the system was, it wasn't a fair system because one person or two people decided and it did not work. I believe a Committee or even doing away with special merit pay as far as I am concerned because the rank and file people don't get it. At least you would have five people deciding and it would be very, very difficult for a department head to come before five members because there would be a lot of questions as to what makes that employee exemplary.

Chairman Wihby stated but it sounds like they weren't following the process, not that...it says here that the person goes to the HR Director and the Mayor and then it goes to the HR Committee and that is the old way.

Alderman Lopez replied but things never came before us.

Chairman Wihby stated well just because it never came before you...if this is the right way of doing something then what is wrong with this.

Alderman Lopez responded because I don't believe that it is the right way of doing something because it did not work.

Chairman Wihby stated I guess I am confused. I look at the way this was written and it says it goes to the HR Director and the Mayor. Either one of those people could have stopped it. It then goes to the Committee.

Alderman Lopez replied it didn't go to the Committee.

Chairman Wihby stated so the HR Director and the Mayor were doing them.

Alderman Lopez replied in most cases the HR Director was approving the special merit pay.

Chairman Wihby stated and then it went to the Mayor and he was signing off on them.

Alderman Lopez stated this would prevent...in the process of changing Mayors and whatever the case may be it takes two signatures under the old ordinance. It took the HR Director and the Mayor to sign the form in order to authorize special merit pay. This did not happen in most cases. It was just the HR Director.

Chairman Wihby asked so the Mayor was never signing off on them.

Alderman Lopez answered that is correct.

Alderman Cashin asked then how did they get them.

Alderman Lopez answered they got them because the paperwork was passed in and I looked at some of the forms and it was in conversation with the previous Mayor where a notation was made on some of the forms saying in conversation with the Mayor and they were signed by the HR Director but no special merit pay should be given unless the Mayor signs it as the CEO. That is the official document to give somebody. Once the HR Director signs it and he instructs Finance to pay them then they are going to pay them and that is what happened in the past. It is not good just to have one person have the final say in this.

Chairman Wihby asked so what passed your Committee is what is in front of us.

Alderman Lopez answered what passed our Committee is what Carol has written in the document, which is number 6 on the agenda.

Chairman Wihby stated right and that seems to tell me that it has to go by the HR Director, the Mayor and your Committee but this new thing that is being passed around says just your Committee.

Alderman Lopez replied I agree with you that it has changed. I don't know who changed it.

Deputy Solicitor Arnold stated the way I read the proposal is shown on number 7 that I have in front of me. It says "recommendations for such increases shall be submitted by the department heads with justification to the Human Resources Director, the Mayor and the Human Resources Committee and that they shall be approved by the Human Resources Committee." I believe that the document that was worked on by the City Solicitor's Office says the same thing, that the department head has to recommend it to the HR Director with a copy to the Mayor and then the HR Director submits all such recommendations to the HR Committee for final action.

Chairman Wihby stated I guess it just seems that if the HR Director and the Mayor who work closely with these people don't think it should go through they should have some say in the process and not have it end up at the Committee level.

Deputy Solicitor Arnold replied if that is the Committee's desire, we could certainly do that.

Alderman Lopez stated I think the way Carol or whoever wrote it is exactly what Alderman Wihby is saying. Now you get the HR Director and the Mayor who don't want to do it then it practically kills it right there. If it has to come before our Committee they are going to say we don't recommend it. It is not even going to be approved. I don't know why it was changed.

Alderman Cashin asked, Alderman Lopez, would you mind if we tabled this and let the full Board of Mayor and Aldermen discuss it because you made the statement that the rank and file are not entitled to this and I don't understand that.

Alderman Lopez stated that is correct. Under the union contract...

Alderman Cashin interjected it has nothing to do with the union contract. If you are entitled to a merit increase, you are entitled to a merit increase. It has nothing to do with negotiations.

Alderman Lopez stated not according to the City Solicitor who informed our Committee...

Alderman Cashin interjected then I really have a problem.

Alderman Lopez stated I have a problem too.

Alderman Cashin moved to table the ordinance. Alderman Pinard duly seconded the motion.

Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.

Chairman Wihby addressed Item 8 of the agenda:

Ordinance Amendment:

"Amending Chapter 52. Sewers of the Code of Ordinances of the City of Manchester by Adding Section 52.160 Sewer Rental Charges.(E)."

Deputy Clerk Johnson noted this was submitted by EPD.

Chairman Wihby stated this is credits for the elderly and disabled.

Deputy Clerk Johnson replied I believe it is the one that the Board requested initially.

On motion of Alderman Pinard, duly seconded by Alderman Cashin, it was voted that the Ordinance ought to pass.

Chairman Wihby addressed Item 9 of the agenda:

9. Ordinance Amendment:

"Amending Chapter 53. On-Site Sewage Disposal Systems of the Code of Ordinances of the City of Manchester by replacing Chapter 53 and inserting a new Chapter 53 including a new Section 53.07 Review of Proposed Plans."

Deputy Clerk Johnson stated instead of saying "review of proposed plans" it read "correction of on-site sewage disposal systems." This was submitted through the Health Officer who I believe is here if you have any questions.

Mr. Rusczek stated this simply updates some of the language in our ordinance regarding on-site sewage disposal systems to be consistent with some of the Charter changes that changed the role of the Board of Health and to change our permit fees to reflect an increase commensurate with the number of years it has been since they were last changed.

Alderman Sysyn moved that the Ordinance ought to pass. Alderman Pinard duly seconded the motion.

Chairman Wihby called for a vote. The motion carried with Alderman Cashin being duly recorded in opposition.

Chairman Wihby addressed Item 10 of the agenda:

Ordinance Amendment:

"Amending Chapter 91. Health and Sanitation of the Code of Ordinances of the City of Manchester by Increasing Fees for some Health Department Inspection Services and making some changes to the technical language."

Mr. Rusczek stated in the last section, 91.51 Duty to Maintain Premises Free of Mosquito Breeding Conditions, in the third line in that paragraph to read "or any other artificial water receptacle" to differentiate standing water from swamps and what have you.

On motion of Alderman Pinard, duly seconded by Alderman Cashin, it was voted to amend the ordinance to add the word “artificial” as noted above.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted that the Ordinance ought to pass as amended.

Chairman Wihby addressed Item 11 of the agenda:

Ordinance Amendment:

"Amending Chapter 111: Amusements of the Code of Ordinances of the City of Manchester by replacing Section 111.70 Curfew At Dances."

Chairman Wihby stated this I think went to the Committee on Administration and then came here. Is that correct, Carol?

Deputy Clerk Johnson replied yes.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted that the Ordinance ought to pass.

Chairman Wihby addressed Item 12 of the agenda:

Ordinance Amendment:

"Amending Chapter 117. Food Service Establishments of the Code of Ordinances of the City of Manchester by Increasing Fees for Food Establishments and other Health Department Inspection Services."

Mr. Rusczek stated we are updating the fees by an amount equal to what our current costs are.

Alderman Pinard asked how do you establish the fees.

Mr. Rusczek answered we establish the fees by looking at our cost by the category of restaurant so we have gone through an analysis of what our food protection program costs, we break it down by the category of restaurant and then the fees here reflect what our actual costs are. The last time they were changed, I believe, was five years or so ago and the increase in most cases is less than 10%. This is really more a matter of keeping our fees current with our costs then generating revenue. Overall this will bring in, if my recollection is correct, about \$10,000 to

increase our revenue for the food protection program from about \$112,000 to about \$121,000.

On motion of Alderman Pinard, duly seconded by Alderman Sysyn, it was voted that the Ordinance ought to pass.

Chairman Wihby addressed Item 13 of the agenda:

Communication from Artemis Paras relative to a proposed ordinance to adopt named codes and editions with amendments, and proposed repeal of existing Housing Code, Chapter 150 of the Code of Ordinances of the City of Manchester.

Chairman Wihby asked have you had a chance to read this, Max.

Mr. Sink answered basically what I get from this is that Mrs. Paras is recommending that the repeal of the Housing Code and its replacement with the Property Maintenance Code be put off or removed from the adoption of the Building Code at this time. Our position on this is we would oppose that move. We feel that enough study has been done to...we are basically amending the Property Maintenance Code by deleting the sections that refer to anything other than residential property. If it is the opinion of this Committee that it be removed, then we would certainly accept that and look at it further.

Chairman Wihby asked have you talked to Artemis about this before.

Mr. Sink answered just today prior to this meeting.

Chairman Wihby invited Ms. Paras to speak.

Ms. Artemis Paras stated I have been long involved with this issue. Alderman Cashin remembers and Alderman Pariseau, since 1999. The repeal of the Housing Code was not indicated in the legal notice in the newspaper and that is how I originally became involved. When testimony was presented to the Board initially on the repeal of the Housing Code to replace it with one of the codes in the family of codes of the International Code series, I heard the department say this is a policy issue. Now what policy might the department be thinking about? I believe the policy is this. We have a Housing Code that has served the City quite well. The Mayor has proposed a Housing Task Force. In this Housing Code that we are utilizing there is an amendment that was made in 1987 regarding the establishment of a Housing Council. It just so happens that the language and the sections are very appropriate at this time because they include emergency shelters and other concerns that are facing Manchester right now. If we repeal this code we are

repealing that section of the code and we are not replacing that in the International Property Maintenance Code. Of greater importance is the policy issue. Does the Board of Mayor and Aldermen, the Committee on Bills on Second Reading that reviews bills, do they support substantive changes to the scope of a code? We are talking about an International Code that was adopted and revised through a code development process. I would like you also to think about the Building Department. We have the Housing Standards Division and the Construction Division. Housing Standards is under a different state law, under RSA 48:A. It governs minimum standards for proper safe housing and other reasons. My main reason for coming before you again with this correspondence is to remind each of you that I am fully in support of adopting the 2000 edition of the Building Code, and all of the other named codes but I would say please do not adopt the International Property Maintenance Code. You would be in concert with the State of New Hampshire as I mentioned in my correspondence to Alderman and Senator O'Neil. He is my Senator and it was at his request that I put the one page memo together. The International Property Maintenance Code is not one of the listed codes on the state bill, House Bill 285. My main concern now about the scope of the code, the International Property Maintenance, is it encompasses all existing structures, residential and non-residential. The Housing Code is limited to residential rental properties. Now if you Aldermen believe that this is the way you want to go, I believe you are setting forth a questionable practice or precedent because you are saying we can take any code that was developed through a proper code development process and we are going to rewrite the scope of the code, which is the governing section of a code. I could tell you a lot more. I want to let you know that I also checked with Nashua, the second largest city, and they are still operating from their housing code based on the authority of state law RSA 48:A and I personally think that it would be wise to hold back on the housing code, repealing it, adopt all of the others and see what you come up with next year and revisit it. I would also like to suggest...I have made two recommendations for two amendments. Max, I don't see them in the version in today's packet. I would like to refer to the minutes that were sent to the Committee members. Because we had a problem once with a subdivision that involved a boundary survey, I would like to suggest that, and Max it is in the minutes, subsection 109.3.1.1. It is under inspections. When we engage in major alterations of property like for example property, they are going to put a small extension. Maybe it is not so important to have a certified boundary survey, but I think when we are getting into subdivisions and all you may want to consider the word for modification the word I just suggested, "certified."

Mr. Sink stated whenever there is an addition to a building, we do require certified plot plans.

Ms. Paras replied but it was not in the language of your amendment so I just wanted to make sure that it was included.

Mr. Sink stated that is our department policy.

Ms. Paras stated also for the grading of lot section 331.041, and I mentioned all of this at the public hearing, I find the word nuisance a word that can drag us into court. What is a nuisance? This is from the minutes, Max and you can get it from the Clerk's Office. When a new structure is erected on a lot, such lot shall be graded to allow surface water to run off away from the foundation and no grading shall be allowed that increases the post development run off or exceeds it from the pre-development run off. That way, you are bringing the position of the Building Department a lot closer with the regulations in Planning.

Mr. Sink replied these issues are covered under the Building Codes. The grading of lots is already in there. I am a little confused. Are we talking about the Building Code now?

Ms. Paras responded yes we are talking about the Building Code because there is that section in the material that was in the agenda.

Chairman Wihby asked what problems would you have, Max, if we accept everything and take out the International Property Maintenance Code and send this letter to the City Solicitor's Office to get some sort of ruling from him for our next meeting along with looking at those two amendments later on and coming back at the next meeting.

Mr. Sink answered I don't have a problem with that. I would certainly take the advice of the City Solicitor as far as amending the scoping provisions of the code. I believe we are in the bounds of the RSA.

Chairman Wihby asked would this delay anything.

Deputy Clerk Johnson stated might I suggest that you refer to the Solicitor. I think he has some comments to make.

Deputy Solicitor Arnold stated I guess my concern with trying to separate out what you are going to recommend passage of tonight and what you are going to try to essentially table for review of this office is how we go about doing that in the language that has been presented. I suggest that it may be rather hasty to do that tonight. I would hate to, in a rush, make an error that might call into question the validity.

Chairman Wihby asked what would we be taking out but the International Property Maintenance Code. We can't just pull that out and have you review it for the next meeting?

Mr. Sink stated I see what Tom is saying. It would probably be logistically difficult to separate that from the language of the proposed ordinance amendment.

Chairman Wihby asked so what would happen if we were to table all of Item 14 for you to work with the City Solicitor. Is that a problem?

Mr. Sink answered no. We have waited this long. I think we can wait another few days.

Chairman Wihby stated so whenever you get together and get this thing resolved we will call a meeting.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted to refer Item 13 to the Solicitor's Office and have them work with the Building Department.

Chairman Wihby addressed Item 14 of the agenda:

Building and Fire Code Ordinances:

"Repealing the 1987 BOCA National Building Code as adopted in Section 151.01 of the City of Manchester Code of Ordinances, and the Housing Code as adopted in Section 150.001 of the City of Manchester Code of Ordinances, and adopting the 2000 editions of the *International Building Code*, *International Property Maintenance Code*, *International Mechanical Code* and the *International Fuel Gas Code*, as well as the 1999 edition of *The National Electric Code* and the 1993 edition of *BOCA Plumbing Code*; establishing minimum regulations governing buildings and structures; and establishing fees for the issuance of permits and certificates for the construction and occupancy of buildings and structures."

"Repealing the BOCA/*National Fire Prevention Code*, 1990 adopted in Section 92.05 of the City of Manchester Code of Ordinances, and adopting the 2000 edition of the *International Fire Code*, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Manchester; and providing for the issuance of permits and the collecting of fees for hazardous uses or operations.

Alderman O'Neil stated there are a lot of tradespeople in this City who have been waiting a considerable period of time, not only tradespeople but engineers and architects, to get these building codes updated and we are holding all of this up over the housing code. I don't see the big deal in separating out the housing code section and approving the International Building Code, the International Mechanical Code, the International Fuel/Gas Code, as well as the 1999 edition of the National Electric Code and the 1993 edition of the BOCA Plumbing Code. It is going to be a little work for staff, but this has been going on too long and we wonder why it is a tough place to do business. There are projects waiting for these approvals. They have been waiting months for these approvals because they were led to believe that it was going to be done. I understand there are some concerns with the Housing Code, but I don't see where it is a big deal to separate it out and approve those other codes as presented. Max, am I wrong?

Mr. Sink replied I have seen this Committee amend the language of a proposed ordinance once tonight and if you can do it again...

Chairman Wihby interjected I just tried doing it and Tom Arnold said no.

Deputy Solicitor Arnold stated my concern is that you are about to vote on repealing certain parts and enacting certain parts and I don't want to see, for instance, the existing Housing Code repealed with nothing enacted in its place.

Alderman O'Neil replied I don't think that is what was suggested Tom was repealing the existing Housing Code. It was just accepting the other codes to replace existing codes.

Chairman Wihby stated it seems to me that would be the easiest way to do it.

Deputy Clerk Johnson stated the Clerk is clear of the language that is intending to be done so I guess based on that if you want to make a motion to change it so that you are not repealing the current Housing Code but you are removing all references to the International Property Maintenance Code, we will have the ordinance prepared and submitted to the Board in proper fashion.

Chairman Wihby asked, Max, if we wait on this to the next meeting are there people lined up for this to be passed.

Mr. Sink answered yes. I think there is an anticipation of this.

Chairman Wihby asked do you have a problem doing what we want to do.

Mr. Sink answered no.

Chairman Wihby asked is the Solicitor's office now saying this is okay.

Deputy Solicitor Arnold answered I think in speaking with Max and the City Clerk that I have addressed the concern of being careful not to repeal the Housing Code without replacing it with something. If we modify or have an understanding that we are going to modify the proposed ordinance so that the present Housing Code is not repealed and that the proposed Building Maintenance Code is not enacted, I think that addresses my concern.

Alderman Cashin stated my understanding is you want to leave the Housing Code just as it is and you want to change everything else right.

Alderman Cashin moved to amend the first ordinance listed by deleting from the first ordinance "and the Housing Code as adopted in Section 150.001" and all references to the "International Property Maintenance Code". Alderman Sysyn duly seconded the motion.

Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.

Alderman O'Neil stated then the Building Department is going to work out the small revisions that may need to take place between the Housing Code and the International Property Maintenance Code.

Mr. Sink replied yes.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted that the ordinances ought to pass, the first as amended.

Chairman Wihby addressed Item 15 of the agenda:

Communications relative to light pollution.

Mr. MacKenzie stated this was an issue that came, I know, to the Traffic Committee. One small piece of that was resolved at the Traffic Committee but there are a number of other issues, particularly issues relating to light that spreads over into neighborhoods. The Committee asked our department to take a look at it and make some recommendations. We are going to do that once we are able to get some staff time set aside in order to work on it. So, we do have on our punch list to put together recommendations on how to deal with some of these issues. Some of the issues are clearly important. Some are more aesthetic issues. We will try to take each one of those issues and separate them and make some recommendations to both Committees because the Committee on Traffic is working on it. If you would like, we could report to both committees when we have some recommendations.

Alderman Cashin asked so a motion would be in order to table this until you have an opportunity to look at it.

Mr. MacKenzie answered yes.

On motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted to table this item.

There being no further business, on motion of Alderman Cashin, duly seconded by Alderman Pinard, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee